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Letter dated 1 June 2005 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my predecessor's letter of 19 October 2004 (S/2004/848). The Counter-Terrorism Committee has received the attached fourth report from Armenia submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex). I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Elien Margrethe **Løj**
Chairman
Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

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Annex

Letter dated 31 May 2005 from the Chargé d'affaires a.i. of the Permanent Mission of Armenia to the United Nations addressed to the Chairman of the Counter-Terrorism Committee

Upon instructions from my Government, and in response to your letter of 4 May 2005, I have the honour to transmit, herewith, the fourth report of the Government of Armenia, in response to the letter of 11 October 2004 from the Chairman of the Counter-Terrorism Committee (see enclosure).

In addition, I am sending you the following laws and regulations of the Republic of Armenia which are annexed to the report:

(a) The law of the Republic of Armenia on licensing;

(b) The law of the Republic of Armenia on the fight against terrorism;

(c) The law of the Republic of Armenia on the fight against legalization of illegal income and financing of terrorism;

(d) Regulation 5 of the Central Bank of Armenia; and

(e) The Statute of the Financial Observations Center of the Central Bank of Armenia.

The Government of Armenia attaches great importance to its cooperation with the Counter-Terrorism Committee and stands ready to provide the latter with any information that it may deem necessary.

(*Signed*) Dziunik **Aghajanian**
Deputy Permanent Representative
Chargé d'affaires a.i.

Enclosure*

Fourth report by the Republic of Armenia to the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

Implementation measures

Criminalization of terrorist acts and their financing

1.1 According to Article 38 of the Criminal Code of the Republic of Armenia (RA) the accomplices of a person who committed a crime are also subject to criminal liability. These are persons who:

- Have arranged or directed the committal of the crime, as well as, the one who created an organized group for committal of crime or criminal association or directed the latter (the organizer);
- Have incited someone to commit a crime through persuasion, financial incentive, threat or otherwise (abettor);
- Have assisted the commission of the crime by giving advices, instructions, information or by supplying means and instruments or by eliminating obstacles, as well as the person, who had promised to conceal the crime, means or instruments of the crime in advance, as well as to cover up the crime traces or stuff obtained by criminal means, as well as the person, who had promised in advance to obtain or utilize these kind of stuff (helper).

Comparing the above-mentioned provisions of Article 38 of the Criminal Code with regard to the helper and the provision of subparagraph1 (b) of the Resolution 1373, it becomes obvious that the latter also stipulates criminalization of the act, which leads to the assistance in terrorism. This condition is also affirmed by the provision of paragraph 6 of Article 39 of the RA Criminal Code, according to which the accomplices, in this case the helper, are subject to criminal liability only for aggravating circumstances of the crime of which they have been aware. In this case it is a matter of wilful assistance and abetting, which is referred to in subparagraph 1 (b) of the Resolution.

By Article 14 of the Criminal Code the person who committed a crime, is subject to criminal liability in accordance with the Code, irrespective of his status.

Article 14 provides that the crime is to be considered committed on the territory of the Republic of Armenia if it was initiated, continued or completed on the RA territory or was committed in collaboration with persons who have carried out criminal activity on the territory of another state.

* Annexes are on file with the Secretariat and are available for consultation.

Paragraph 3 of the same Article provides that in case a person has committed a crime on the territory of RA or other states, he/she is liable if he/she was called to criminal liability on the RA territory and if no other provision is stipulated by RA International Agreements.

In accordance with Article 15 of the Criminal Code, the citizens of the Republic of Armenia, as well as permanent residents, and stateless persons who have committed a crime outside the Republic of Armenia, are subject to criminal liability if the act committed by them is recognized as a crime by the legislation of the state, where it was committed and if they have not been convicted for the same crime in another state. Moreover these persons are subject to criminal liability in accordance with the RA Criminal Code for commission of such offences outside Armenia which are prescribed by Article 388 of the RA Criminal Code (terrorist act against representatives of foreign state or international organization), Article 389 (international terrorism) and by several other articles, regardless of the fact whether the mentioned acts are prescribed by the criminal code of the state where there were committed.

Paragraph 3 of Article 15 of the RA Criminal Code also stipulates liability for those foreign citizens who have committed an offence outside of the territory of the RA, if the offences are prescribed by RA International Agreements (i.e. acts relating to terrorism are prescribed by the Convention for the Suppression of Financing of Terrorism) or who have committed heavy or extremely heavy offences directed against the interests of the RA or against RA citizens' rights and freedoms, (terrorism, as well as international terrorism are considered as heavy or extremely heavy offences by Articles 217, 388 and 389 of the RA Criminal Code).

It is important to note that according to Paragraph 4 of Article 15, the above mentioned persons are subject to criminal liability by the RA Criminal Code, only if they have not been convicted for the same offence in another country.

Recently, the RA Criminal Code was supplemented by the law signed into effect by the President of Armenia on January 11, 2005, which envisaged a new Article (217) on financing of terrorism. According to this article, allocation or collection of financial resources for execution of a terrorist act is considered as financing of terrorism. Imprisonment from 3 to 7 years with or without confiscation of property is foreseen for such a crime.

The same offence which is committed by a group of persons with a prearranged agreement or by an organized group is punishable by imprisonment for a term of 8 to 12 years with or without confiscation of property (the act prescribed by the first paragraph of the mentioned Article is considered as a heavy offence and the act prescribed by the second paragraph an extremely heavy offence).

To sum up the response to this question Article 39 of the RA Criminal Code should be recalled again. The provision of its Paragraph 2 prescribes that the organizer, abettor and helper of the crime (in this case - terrorist act) are subject to liability according to the article that prescribes the committed offence, when a reference to Article 38 of the same Code should be made (in order to emphasize that the person appears not as an executer, but as an organizer, abettor or helper). Article 38 should not be referred to if the organizer, abettor or helper appears to be a co-committer of a given offence at the same time.

1.2

In regard to subparagraph 2 (a) of the Resolution, it should be mentioned that the Republic of Armenia or any RA state or local self-governing body, guided by the Constitution and the laws of the Republic, is not only obliged to refrain from providing any form of support to any criminal activity, but is obligated to take measures for its prevention within its authority.

In case the officials of state bodies have in any way assisted the organizations or persons involved in organizing or committing terrorist acts, they shall be subject to criminal liability in accordance with Articles 38-39 of the RA Criminal Code, taking into account also Articles 14-15.

In order to call to criminal liability, the methods and means used by the person to commit a crime are irrelevant. It is sufficient to prove through criminal proceedings that by using appropriate means or methods (e.g. teaching position) the person in question has committed a given act, such as recruiting persons for executing, inciting, or organizing a terrorist act.

By the provision of Paragraph 4 of Article 38 of the RA Criminal Code, the recruitment act itself would be considered as an act of incitement to carry out a terrorist or other criminal act, as the aim of recruitment is the involvement of persons in the commission of a criminal act.

Whether the person is a member of any illegal group or is a member of a legal organization is irrelevant for attesting the commission of a crime. It is important that an illegal act committed by a person is prescribed by the Criminal Code.

According to Paragraph 3 of Article 41 of the RA Criminal Code, a crime is considered committed by an organized group, if it was committed by a sustained group of persons, who had united in advance to execute one or more offences.

It follows from the above-mentioned provision, that, according to the existing criminal law, an organized group is a factual union of persons with the aim to commit one or more offences. At the same time, it implies that these persons can be members of a legal organization but unite for a criminal purpose. It is also possible that legal organization might or might not be aware of the criminal grouping or of their intentions. If they are aware and do not inform the competent authorities about it, the informed persons of such organizations will also be called to criminal liability according to the Criminal Code.

According to Paragraph 4 of Article 41 of the Criminal Code, the crime is considered committed by a criminal collaboration, if it was committed by a group established, linked and organized for execution of a heavy or extremely heavy offence (including terrorism and its financing) or by a union of organized groups created for the same purpose, as well as if the crime is committed by a member (members) of such a collaboration with the aim to carry out the criminal intent of the group, as well as by a person who is not a member of a criminal collaboration but who has committed the offence upon its instructions.

Consequently, in any case the issue is about an organized group, which does not imply an establishment of an organization. However, it is quite possible that members of an organized group might also be members of a legal organization. In case it is revealed that officials of the given legal organization have assisted or are members of a criminal organized group, they will be subject to criminal liability together with other members according to the degree of crimes committed by them.

An organization established on a legal basis, but carrying out criminal activity (through its officials or other members) should be liquidated by the decision of the court and upon the claim from a competent state or local self-governing body in accordance with Paragraph 2.3, of Article 67 of the RA Civil Code.

As acts prescribed by the Criminal Code are prohibited in principle, no organization can be established (be registered by the state) in Armenia if at least one of its purposes is committing an act, which is prescribed by the Criminal Code. No organization can be registered if its founding documents contain violations of provisions of any legislative act in Armenia.

Referring to the act of banditry prescribed by Article 222 of the RA Criminal Code, the circumstance related to the creation, leading an organized armed group (band) or participation in the crimes committed by the band will be present in all those cases when the purpose of the band is assaulting people or organizations.

The same *corpus delicti* also exists in those cases when a group of soldiers of a legally established armed unit (or even all the soldiers of the unit) having the arms legally assigned to them, unite with the aim of assaulting people and organizations. In this case the legal armed unit transforms into an organized criminal armed group (band), and therefore it is subject to the provisions of the criminal law.

Article 224 of the RA Criminal Code refers to the establishment of armed units not envisaged by the law. Legal armed units are exclusively formed by the state and only in the armed forces and in the internal forces of the Republic of Armenia. Therefore, in all other cases neither legal nor physical entities are authorised to create armed units. Article 224 prohibits establishment of such armed units stipulating criminal liability for it.

Article 224 is applicable in those cases, when the establishment of armed unit not envisaged by the law does not contain the features of the crime (banditry) prescribed by Article 222.

1.3

Article 389 of the RA Criminal Code relates to international terrorism and defines the following: International terrorism, i.e., organization or implementation of an explosion or arson or other acts in the territory of a foreign state, with the purpose of international complications or provocation of war or destabilization of a foreign state, aimed at the destruction of people, or causing bodily injuries, destruction or spoilage of facilities, roads and

means of transportation, communications, or other assets, is punishable by imprisonment for 10-15 years, or for life.

The above-mentioned article implies that for an act of international terrorism a citizen of any state or a stateless person who organizes or executes such an act in the territory of any state will be liable in accordance with the RA Criminal Code.

If a person suspected in committing such an act appears to be on the territory of the Republic of Armenia, a criminal persecution will be initiated in the order prescribed by the RA Criminal Procedural Code.

If a state where a person has committed a terrorist act requests an extradition, Armenia will extradite that person in accordance with RA International Agreements, except for the cases provided for by the Agreements, or when a person who committed a terrorist act in a foreign state is a citizen of the Republic of Armenia. It is obvious, that if the terrorist act is committed in the territory of the Republic of Armenia, the person who committed the crime regardless of his/her citizenship is subject to criminal liability within the territory of Armenia and in the order prescribed by the law.

According to the new Article on Financing of Terrorism (Article 217) amended into to the Criminal Code, any person who finances an execution of terrorist act is subject to criminal liability. If the financing of the execution of a terrorist act is done by a person who is present in a foreign state, is a national of that state or of another state, or is a stateless person, according to Article 217, he/she will be subject to criminal liability in the order prescribed by the RA Criminal Code.

Likewise if a person has financed an act of international terrorism (Article 389), it will also be considered a criminal act, since the financing of the offence provided for by Article 389 will be considered as assistance to international terrorism according to Paragraph 5 of Article 38 of the RA Criminal Code.

1.4

The Law on the System of Payments and Payment Organizations was adopted by the National Assembly of the Republic of Armenia in November 2004 and was signed by the President of RA in December 2004.

On June 11, 2004 the National Assembly enacted a new Law on Insurance of the Republic of Armenia, which rectified the gaps and shortcomings of the previous Law on Insurance, adopted in 1996. Certain provisions were included, concerning the mechanisms of state monitoring of insurance companies and their activities, their compliance with the international standards, guaranteeing the appropriate level of insurers' financial stability, supervision mechanisms of reinsurance transactions, as well as other issues relating to the regulation of insurance market. In fact with the enactment of the new Law on Insurance the main stage of the regulation of insurance related activities was completed with improvement of the legislative field. Proper legislative basis for a stable development of the Insurance system in Armenia was created.

Proceeding from the necessity of guaranteeing the reliability of insurance companies in terms of paying capacity and financial stability, the Government Decision No 1345 of September 30, 2004, established the requirement of minimal amount of capital fund. According to the timetable beginning from January 1, 2005, it shall constitute 100 million AMD (Armenian Dram) or about 200,000 USD and, gradually increase to 500 million AMD (about 1,000.000 USD) by January 1, 2008.

At the same time, in order to completely regulate the insurance legislation, a range of regulations are envisaged to be adopted deriving from the Law on Insurance, which will make the insurance legislation more comprehensible.

The activities of pawnshops in the Republic of Armenia are regulated by the Law on Pawnshops and Pawnshops Activities, by the Law on Making Changes and Amendments to the Law on Pawnshops and Pawnshops Activities, the Law on Licensing, the Civil Code (Articles 250, 255), the Law on Administrative Offences, the Law on Making Amendments to the Law on Administrative Offences, the Law on Legislative Acts, and the Law on Organization and Implementation of Inspections on the Territory of RA.

The sphere of gambling houses, lottery and other profit-oriented games is mainly regulated by the following laws:

The Law on Profit Oriented Games and Gambling Houses,

The Law on Lottery Games;

The Law on Licensing,

The Law on Organization and Implementation of Inspections in the RA;

The Law of the RA on Legislative Acts;

Government Decision from 29.01.2004 on establishing the Rules applicable for Live Games in RA,

Government Decision from 29.07.2004 on ensuring the implementation of the Law on Profit Oriented Games and Gambling Houses;

Government Decision from 01.07.2004 on Ensuring the Implementation of the Law on Lottery Games,

Government Decision On the Establishment of the Procedure of the Submission of Information (reports) by the Organizers of Lottery Games to the Government Authorized Body.

The Republic of Armenia has become a party to the following international conventions and protocols relating to terrorism:

United Nations Conventions on Terrorism

1. Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, adopted by the General Assembly of the United Nations on December 14, 1973. (Joined on December 21, 1993).

2. International Convention against the Taking of Hostages, adopted by the General Assembly of the United Nations on December 17, 1979 (Ratified on March 3, 2004).

3. International Convention for the Suppression of Terrorist Bombings, adopted by the General Assembly of the United Nations on December 15, 1997 (Ratified on March 3, 2004).

4. International Convention for the Suppression of the Financing of Terrorism, adopted by the General Assembly of the United Nations on December 9, 1999 (Ratified on March 3, 2004).

5. Convention on Offences and Certain Other Acts Committed on Board Aircraft, signed at Tokyo on September 14, 1963 (Joined on March 16, 1994).

6. Convention for the Suppression of Unlawful Seizure of Aircraft, signed at the Hague on December 16, 1970 (Joined on March 16, 1994)

7. Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal on September 23, 1971.

8. Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal on February 24, 1988. (Joined on October 9, 1996).

9. Convention on the Physical Protection of Nuclear Material, signed at Vienna on March 3, 1980. (Joined on October 9, 1996).

10. Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, done at Rome on March 10, 1988 (Joined on March 21, 2005).

11. Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, done at Rome on March 10, 1988 (Joined on February 28, 2005).

12. Convention on the Marking of Plastic Explosives for the Purpose of Detection, signed at Montreal on March 1, 1991. (Joined on February 28, 2005).

Conventions and Protocols within the Council of Europe

- European Convention on the Suppression of Terrorism
- Protocol amending the European Convention on the Suppression of Terrorism
- European Convention on Extradition
- European Convention on Mutual Assistance in Criminal Matters
- European Convention on the Transfer of Proceedings in Criminal Matters
- Additional Protocol to the European Convention on Extradition

- Second Additional Protocol to the European Convention on Extradition
- Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters
- European Convention on the Compensation of Victims of Violent Crimes
- Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime

Treaties within the Commonwealth of Independent States (CIS)

- Agreement on Cooperation in the Field of Protection of Civil Aviation from Illegal Interference.
- Treaty on Cooperation among States Members of the Commonwealth of Independent States in Combating Terrorism.
- Agreement on the Cooperation between the Ministries of Interior of the CIS Participating States for the Suppression of Terrorism.

The Armenian Criminal Code clearly refers to terrorist acts in *Article 217 "Terrorist acts"*, *Article 388* "Terrorist act against a representative of a foreign state or international organization," *Article 389 "International terrorism"*.

Criminal offences listed in Articles 217, 388 and 389 incur a sentence up to 15 years and in case of aggravating circumstances up to the maximum sentence of life imprisonment.

A new Law on the Fight Against Terrorism was adopted by the National Assembly in March 2005 and entered into force in April 2005. It defines the purposes of the fight against terrorism, the main principles of the fight against terrorism, the main functions of the bodies executing the fight against terrorism, etc. Article 5 of the Law outlines the definitions for a *terrorist act, the terrorist activity, a terrorist, fight against terrorism, counter terrorism action, Implementation Zone of Counter-Terrorism Action, a hostage. (The English translation of the Anti Terrorism Law is annexed).*

The National Assembly has passed a legislation outlawing money laundering and financing of terrorism, bringing the Armenian legislation in line with its international obligations to combat financing of terrorism and strengthening the ability of the Government to prosecute terrorism related offences. The Law of the Republic of Armenia on the Fight Against Legalizing the Illegal Income and Financing of Terrorism was passed by the National Assembly in December 2004 and entered into force on March 22, 2005. (The English unofficial translation of the law is annexed).

Effectiveness in the protection of financial system

1.5

Chapter 2 (Articles 4-9) of the Law on the Fight Against Legalizing the Illegal Income and Financing of Terrorism provides answers to the above-mentioned question. Article 6 entitled Transactions Subject to Reporting reads as follows:

1. Persons submitting the reports, irrespective of cash or non-cash transaction should provide the Authorized Body with the following information about the transactions concluded between them and a customer or a third party:

a) Transactions exceeding 20 million AMD (about 40000 USD), except for real estate purchase and sale transactions;

b) Real estate purchase and sale transactions exceeding 50 million AMD (about 100000 USD);

c) Suspicious transactions, irrespective of the amount mentioned in this paragraph. The transactions stipulated in part 3 of this Article are not considered as suspicious.

2. A transaction (a contract) can be considered as suspicious, if:

a) The customer proposes the person submitting the report to conclude or concludes with him such a transaction, which although complies with laws and the requirements of other legal acts, however, does not allow to disclose the identity of any of the parties or nature of the activities or to get the information necessary for the person submitting the reports about the conclusion or implementation of the contract;

b) The terms of the transaction do not comply with the terms that usually apply to the transactions of the given field or practices of business activities;

c) Becomes clear to the person submitting the report that the proposed or concluded transaction obviously does not follow an economic or regular objective;

d) The customer does not provide the person submitting the reports with the explanations and clarifications acceptable for the latter about legal implications of the given transaction. Acceptable explanations and clarifications for the person submitting the report can be oral and written evidence presented by the customer that identify the legality of the concluded or proposed transaction or legality of origin of the asset subject to transaction or its factual belonging. The Board of the Central Bank can set up other criteria of acceptable explanations and clarifications.

Normative legal acts of the Central Bank can establish other grounds, not mentioned in this part, for considering transactions as suspicious, based on which the persons submitting the reports are bound to regard the transaction as suspicious.

3. Money transfer is not considered as suspicious if it does not exceed 5 million AMD (about 10000 USD) and if it has been made by the natural person working outside of the Republic of Armenia for a personal, family or other such purposes.

4. The Board of Central Bank defines the criteria for each of provisions set out in paragraph 2 of this Article, which establishes the transaction to be considered as suspicious, with relevance to the group of persons submitting the reports and agreed upon with the relevant authorized body.

For the persons licensed by the Central Bank the criteria for considering the transactions as suspicious are established by the Board of the Central Bank.

Article 7 of the Law on the Fight Against Legalizing the Illegal Income and Financing of Terrorism defines content of information and the order of submission of the information:

1. The information should contain:

a) Detailed information about the customer – name, type and details or title of the identification document and other data of legal person existing with the report provider (location, details of taxpayer's registration, bank account, state registration, license number);

b) Substance of the transaction;

c) Place of transaction conclusion;

d) Price of the transaction (value);

e) Date of transaction;

f) In case of absence of beneficiary in the transaction – his essentials (if there are such).

2. In the report on suspicious transaction the grounds for the transaction to be considered suspicious should also be mentioned.

3. The staff of the persons submitting the reports who provide services to the customers, in case of qualifying the transaction (deal) as suspicious, shall be notified about the fact that the Authorized Body is informed about the given customer.

4. The Central Bank establishes the order, terms and forms of providing the information by the reporting persons that are licensed by the Central Bank, as well as by those persons that are not licensed and supervised by the relevant authorized bodies.

Chapter 6 of the Law on the Fight Against Legalizing the Illegal Income and Financing of Terrorism addresses the cases related to the violations of the requirements of the law. Article 19 of Chapter 6 sets up liability for the violation of the requirements of this law. It appears as follows:

For not meeting the requirements of this law and legal acts passed on the basis of this law the persons submitting the reports shall pay a fine to the state budget: for the first time – 200 times of the minimal salary; for the second time – 300 times of the minimal salary, three and more times – 500 times of the minimal salary.

2. The persons licensed and supervised by the Central Bank, as well as information providing persons not supervised or licensed by authorized bodies shall pay fine envisaged by

paragraph 1 of this article by the decision of the Board of Central Bank, other persons licensed or supervised by authorized bodies – upon written motion of the Central Bank, by the decision of the authorized body.

3. For violating the requirements of this law and legal acts passed on the basis of this law, the employees of persons submitting the reports licensed and supervised by the Central Bank shall be sanctioned in the order established by the law regulating their activity and by the "Law on the Central Bank of the Republic of Armenia".

For violating the requirements of this law and legal acts passed on the basis of this law the employees of other reporting persons shall be fined in the amount of 100 times the minimal salary, and for those violations that have been repeated within one year after imposing the fine in the order established by this law – 200 times the minimal salary. The above-mentioned fine is levied in accordance with the Code of the Republic of Armenia on Administrative Violations.

4. Report providers, as well as their managers and employees cannot be subjected to sanctions, including compensations for damages caused to customer or other person, for performing their legal duties deriving from this law and other legal acts passed on the basis of this law.

5. For disclosing the information of banking secrecy submitted to the Authorized Body on the basis of this law and legal standard acts passed on the basis of this law, as well as illegal disclosure of information that is commercial and official secret the employees of the Authorized Body shall be liable in accordance with the legislation of the Republic of Armenia.

The damage caused to legal and natural persons as a result of illegal activities of the staff of the Authorized Body, shall be compensated in the order established by the law of the Republic of Armenia, but not more than that of the amount of the damage.

6. The Republic of Armenia should compensate the damage caused by illegal activities (inactivity) of state bodies or their officials.

The Law of the Republic of Armenia on the Fight Against Legalizing the Illegal Income and Financing of Terrorism stipulates an obligation to report both suspicious transactions relating to the prevention of the financing of terrorism and money-laundering activities and/or transactions linked to other criminal activities.

According to the Law on the Fight Against Legalizing the Illegal Income and Financing of Terrorism, the Central Bank acts as FIU. The law envisages the establishment of a separate unit within the structure of the CB - The Financial Observations Center (FOC).

Chapter 3 of the Law defines the scope of functions of the Authorized body and the relationships between the Authorized Body and other authorities

The Central Bank is the Authorized body for the fight against legalizing illegal income and financing of terrorism. It is tasked with the collection and maintenance of information, analysis of data, exchange of information and submission to the state competent bodies, as well as exchange of that information with other international organizations and, in

the cases stipulated by international treaties to which the Republic of Armenia has joined, also to the competent bodies of other countries. The Authorized body performs a mandatory supervision over the process of information submission.

With an objective to organize the fight against legalizing illegal income and financing of terrorism and collect and coordinate the information stipulated by this law, a structural sub-division is established in the Central Bank. The Board of the Central Bank appoints the head and members of the sub-division. The functions of the sub-division (FOC) are established by the statute approved by the Board of the Central Bank. The Statute of The Financial Observations Center was approved by a decision of the Board of Central Bank on March 11, 2005. (The English unofficial translation of the FOC Statute is annexed).

1.6

The Central Bank has received 9 suspicious transaction reports on money-laundering activities. As a result of analysis of these reports 5 criminal cases have been initiated and criminal investigations are underway. According to the Law on the System of Payments and Payment Organizations the Money remittance/transfer service can operate outside the banks only after being licensed by the Central Bank. Currently there are no such services operating outside the banks.

The scope of Foreign exchange bureaus is very small in this sphere. These bureaus provide services only to individual citizens and tourists.

1.7

This issue is addressed in Regulation 5 of the Central Bank and Article 9 of the Law on the Fight Against Legalizing the Illegal Income and Financing of Terrorism. *(The texts of Regulation 5 and the Law on the Fight Against Legalizing the Illegal Income and Financing of Terrorism are annexed).* In the order established by this law and legal acts derived from the latter, the persons submitting the reports are entitled to identify the customers, third persons acting on behalf of customers and retain that information.

Article 9 of the Law on the Fight Against Legalizing the Illegal Income and Financing of Terrorism and sub-paragraph *(d)* of Article 3, which defines the list of competent bodies (including the state cadastre and state notary offices), impose an obligation to identify parties of transactions.

In those cases where terrorism is suspected the issue of obtaining information is dealt with in accordance with International Agreements and on the basis of the principle of reciprocity. Article 12 of the Law on the Fight Against Legalizing the Illegal Income and Financing of Terrorism touches upon this issue. It states: "In fighting against legalizing the illegal income and financing of terrorism the Authorized Body and other state authorities cooperate with the authorities of foreign states in the order established by the law within the scope of international treaties."

1.8

The Central Bank officers have participated in several courses and training programs, and consequently the same officers have organized seminars at their work-places for their colleagues, as well as for employees of other banks. The Central Bank, in its capacity as the Authorized Body on the Fight Against Legalizing the Illegal Income and Financing of Terrorism, has worked out and implemented a national program on training and technical support.

A few seminars on terrorism and its financing were held in Yerevan in 2003-2004, and were attended by judges, prosecutors, persons in charge from the Police and National Security Service, as well as officials from competent state bodies. During those seminars experts from the Council of Europe and specialists from other countries have shared information and data they possessed on methods and techniques for combating financing of terrorism, as well as the application of those methods and techniques applied against financing of terrorism in their respective countries.

The Judicial Training Centre under the Council of Courts of the RA regularly organizes training courses for judges on various themes. The Centre is working towards elaboration of special programs designed at implementation of the legislation on financing of terrorism. The Directorate of the Research Centre of the RA Prosecutor General's Office also conducts preparatory works to elaborate and implement such programs for the employees of the Prosecutor General's Office.

Officers from the National Security Service regularly participate in training courses organized by different international organizations. Particularly they had the opportunity to join the courses organized in the USA in 2002 focused on the issues of "Management of Critical Situations".

Officers from the Police of RA have participated in courses organized in Yerevan, as well as in the United States, Egypt, Russian Federation and Republic of Belarus. In the period of 2002-2004 twenty courses were organized by the US State Department, Cairo Police Academy, Ministries of Interior of Russian Federation and the Republic of Belarus. About 130 officers of the Police of RA have attended those courses.

1.9

In the context of effective implementation of sub-paragraph 1(a) of the Resolution, or of Article 18 of the International Convention for the Suppression of the Financing of Terrorism the activities of accountants and other professionals when they are engaged in financial transaction are regulated by the Law on the Fight Against Legalizing the Illegal Income and Financing of Terrorism, as well as by the Statute of the Financial Observations Center *(see the answer to paragraph 1.5 above)*.

1.10

No suspicious case of financing of terrorism has been discovered in the financial institutions in Armenia. All the banks have undergone at least one complete audit by the Central Bank and a few specific inspections during the last two years. In all the cases, the compliance of the bank activities with the requirements of the Regulation 5 was verified. Specific inspections were carried out aimed at revealing any cases associated with money laundering or financing of terrorism. All the foreign exchange bureaus were audited in January 2005 and many of them were closed because of legislative violations, but no case of money laundering or financing of terrorism was registered. No money remittance agencies are operating outside the banks (see the answer to the question 1.6).

All the banks, credit organizations and exchange bureaus are subject to inspection at least once in two years at the discretion of the Board of the Central Bank.

1.11

The Law on the Fight Against Legalizing the Illegal Income and Financing of Terrorism, as well as RA Criminal Procedural Code (Articles 232-234) provide the possibility for arresting (freezing) effectively those financial funds, which belong to persons linked to terrorist activity, regardless of their origin. Moreover, according to the legislation of the Republic of Armenia freezing of such financial funds is not contingent on the presence of such persons in any list. To freeze the assets, it is sufficient that a person appears to be a suspect or is an accused.

According to Article 232 of the RA Criminal Procedural Code the arrest (freezing) of financial funds (or any other property) is carried out in order to ensure the civil suit on the criminal case, possible confiscation of the assets and the judicial expenses.

Arrest (freezing) of financial funds (and other property) is carried out on the basis of the decision of investigative body, the investigator or prosecutor (Part 2 of Article 233 of the RA Criminal Procedural Code). The assets, which are subject to arrest, must be specifically mentioned in the decision.

Article 10 of the Law on the Fight Against Legalizing the Illegal Income and Financing of Terrorism envisages such authority for the Central Bank. By July 2005, relevant regulations are to be worked out in accordance with the Timetable on Elaboration and Implementation of the Central Bank Regulations deriving from the Law.

1.12

The RA competent bodies may freeze (arrest) assets or economic resources belonging not only to physical but also to legal entities, which are owned or controlled directly or indirectly by persons, who committed or attempted to commit terrorist acts or participated in or facilitated the commission of terrorist acts.

Part 2 of Article 232 of the RA Criminal Procedural Code prescribes, that the property of suspected and accused persons, as well as of those persons who can be subject to material liability because of the actions of a suspected and accused person, is subject to arrest, regardless of the kind of property and who is in possession of it.

The Law on the Fight Against Legalizing the Illegal Income and Financing of Terrorism provides the Central Bank with the authority to freeze financial assets or economic resources. The Central Bank also has such an authority under Regulation 5. The persons (entities) submitting STRs, shall also suspend or terminate the transactions of those accounts that are suspected in legalizing illegal income and financing of terrorism upon the decree by the Central Bank. (See Chapter 5 and Article 10 of the Law.)

1.13

According to the Law on the System of Payments, the activity of money remittance/transfer services is illegal if they are not licensed by the Central Bank. The latter is responsible for their supervision and regulation. No such services are performed out of banks.

1.14

The norms of Chapter 54 of the RA Criminal Procedural Code regulate the procedures for undertaking legal activities by the Armenian competent authorities acting upon the requests from foreign governments, and transferring the results to the requesting country, in accordance with RA International Agreements.

According to provisions of Chapter 54 (Articles 474-476 and others), an investigation undertaken upon requests from foreign states in RA territory is conducting by RA competent authorities in a way prescribed by the RA Criminal Procedural Code, taking into account the exceptions provided for by RA International Agreements.

Chapter 54 of the RA Criminal Procedural Code regulates the order and conditions of conducting a criminal prosecution undertaken upon requests from competent authorities of those states, with whom Armenia does not have an agreement on legal assistance in criminal cases within the scope of international agreements. Such assistance is being carried out on the basis of mutual agreement between RA and the given state.

Article 498 of the mentioned Code prescribes that RA Prosecutor General and the Court, upon the request from a competent authority of a foreign state, in the order prescribed by Chapter 54 of the Code, carries out criminal prosecution with respect to RA citizens, as well as foreign nationals or stateless persons, who were rejected an extradition and who are suspected of having committed a crime in the territory of the given foreign state.

The norms of Chapter 54 of the mentioned Code regulate the relations concerning legal assistance between international authorities dealing with criminal cases (International Courts, International Criminal Police, etc.) and RA competent bodies.

As to the coordination of the executive bodies and the bodies undertaking criminal investigations, it should be mentioned, that the investigative authorities within their competence (tax bodies, customs, etc.) are obligated, within 10 days from the day of the initiation of the criminal case, to conduct investigation and transfer the case to an investigator from the Prosecutor's Office, Police or the National Security Agency who carry out the preliminary investigations of criminal cases (Articles 188 and 197 of the Code).

As a result of inspections conducted by RA tax authorities no, non-profit organization suspected of involvement in financing of terrorism was discovered. The supervision of non-profit organizations by tax authorities is carried out in a general order prescribed by the legislation. No exclusions with regard to supervision are envisaged for this sector. The religious, non-governmental and benevolent organizations are precluded from conducting business related activities.

The Customs authorities are conducting customs control, which does not have a special regulation for the religious, benevolent and cultural organizations. That is, the customs bodies undertake customs control regardless of the purpose of the activities of the persons transferring goods across customs borders.

1.15

The Law on the System of Payments and the monitoring authority of the Central Bank are sufficient to carry out such supervision. That is one of the most important elements of inspection and audit in the process of Central Bank on-site monitoring. The Central Bank can require and receive any information. Chapter 2 of the Law on the Fight Against Legalizing the Illegal Income and Financing of Terrorism covers all kinds of transactions, cash and non-cash, both cross-border and domestic.

1.16

Regulation of determining the custom value developed on the basis of WTO principles, are used in Armenia which enables to prevent under-invoicing or over-invoicing of exporting and importing goods with maximum efficiency. In cases of suspicions, the declared custom value is not accepted by the customs authorities, and the value determined by the customs authorities in the order prescribed by the legislation is taken for the processing of customs documentation.

As to preventing any manipulation connected with diamonds, the Republic of Armenia currently participates in the Kimberley process of control of international trade of diamonds and implements appropriate mechanisms (Diamonds cross-border transportation is carried out in accordance with the Kimberley Certification Scheme).

1.17.

According to Article 239 of the RA Criminal Procedure Code, if there is sufficient ground to presume that the mail or other means of communication (correspondence) sent or received by the suspected or accused person, might contain probative information, the investigator is eligible to make a reasoned decision to appeal to the court with a request to inspect the correspondence of the mentioned persons.

The inspection of the correspondence will be applied upon the decision of the court.

The following items of the correspondence--letters, telegrams, radiograms, parcels, cases, post containers, transmissions, fax and e-mail messages are particularly subject to arrest.

The decision of the court on setting up an inspection over the correspondence is sent to heads of post-and-telegraph offices for whom the decision is compulsory.

If, as a result of the inspection, certain items or documents are disclosed which might be of significance to the case, the investigator may confiscate the appropriate correspondence or make copies of it (Article 240). The inspection of the correspondence shall be terminated by the decision of the investigator, prosecutor or the Court. No deadlines are defined for such an inspection.

When the court makes a decision to permit the inspection and recording of telephone conversations or conversations by other means of communication of the suspected or accused person, the examination and listening of the appropriate records is performed by the investigator in the presence of attesting witnesses, and if necessary, experts.

Conversation eavesdropping and recording can be set up for a term of not more than six months. They are to be terminated when there is no more necessity for it, but in any case, not later than the time of completion of the preliminary investigation. According to Part 2 of Article 197 of the RA Criminal Procedural Code the preliminary investigation of a criminal case is to be completed in a term of not more than two months, starting from the day of the decision on the initiation of the criminal case. The time-period of the preliminary investigation may be extended by the prosecutor upon the investigator's reasoned decision. The inspection of correspondence or control and recording of conversations can be performed only with respect to the suspected or accused person.

The RA competent authorities may also conduct such judicial activities upon requests received from competent authorities of other states, based on RA International Agreements or on the principle of reciprocity.

1.18

Chapter 12 of the RA Criminal Procedural Code regulates the issues concerning the protection measures of victims, witnesses, accused persons, their legal representatives, lawyers and other persons participating in the criminal proceedings (of prosecutor, investigator, the representative of the investigation authority).

In case the authority conducting the criminal investigation finds out that the aforementioned persons need to be protected from offences prescribed by the law, at the request of these persons or by its own initiative, the required measures to protect them shall be taken (Article 98 of the Code).

Moreover, protective measures are required to be applied, if the person involved in the criminal proceedings or his/her close relatives were threatened by physical violence or destruction of the property or if he/she was exposed to violence, due to the latter's participation in the criminal proceedings.

The security measures to be provided for the protected person are the following (Article 99):

Taking the person or his/her relative under personal protection;

Guarding the apartment or the property, belonging to or used by the protected person;

Transfer of the protected person to a place, where his/her security in ensured;

Transfer of the detained person into a facility, where his/her security in ensured.

The protective measures are to be terminated by the reasoned decision of the authority, conducting the criminal investigation if there is no more necessity to maintain it. The protected person should be notified about the decision.

According to Article 24 of the RA law "On the Status of the Judge", the judge and the members of his/her family are under special protection by the state. Based on the request of a judge the competent state authorities are obliged to take all necessary measures to provide security for a judge and his/her family members.

In accordance with International Agreements and principle of reciprocity, the competent authorities of the Republic of Armenia can also take security measures upon request received from competent authorities of foreign states with respect to persons mentioned in the request.

1.19

According to the Civil Code and the Code on Administrative Offences, legal entities might be subject to property and administrative liability. The legal system of the Republic of Armenia excludes criminal liability for legal entities.

Consequently, no legal entity, or another physical person can be called to criminal liability instead of a physical person who committed a crime and was not detected or sentenced, if the legal entity or physical person has not committed a crime or is not an accomplice of a crime, committed by the person who was not detected or sentenced.

1.20

The legislation of the Republic of Armenia does not provide any procedure for designating an organization as terrorist. In case the body undertaking the criminal case finds out that an organization, established in accordance with the order prescribed by law and carrying out its activity in the territory of the Republic of Armenia, performs activities prohibited by the existing law, for instance, carries out one or more actions provided for by the RA Criminal Code, referring to Point 3, Part 2 of Article 67 of the RA Civil Code the authority executing criminal procedure may appeal to the competent state authority to pass a decision on its liquidation in a judicial order. The authority executing the criminal procedure should provide with the facts proving that the organization is involved in an activity prohibited by the law, in particular: organization of a terrorist act, its execution or assistance in it.

Moreover, the court itself has the right to enforce the founders of the legal entity or the body who is competent in liquidating the entity, to liquidate that legal entity.

The demand for liquidation of the legal entity may be presented not only on the basis of the Criminal Code, but also in cases when activities forbidden by any other law have taken place, as well as in case of multiple or serious violations of the law or other legal acts by a public entity or a foundation, contradictory to its statutory purposes.

1.21

Article 11 of the Law on the Fight Against Legalizing the Illegal Income and Financing of Terrorism defines the relationships between the Authorized Body (i.e. Central Bank) and other state authorities.

Article 12 states that in the fight against legalizing illegal income and financing of terrorism the Authorized Body and other state authorities cooperate with the authorities of foreign countries in the order established by the law within the scope of international treaties.

1.22

Export Procedures

According to Article 128 of the RA Customs Code, all goods and transportation means exported through the Republic of Armenia customs borders are subject to declaration. Declaration is presented either in written or in oral form by mentioning precise information about goods and vehicles, the purpose of their conveyance, as well as other information required for customs control and processing.

Goods and vehicles exported by physical persons are subject to declaration in the border customs point through which they are conveyed. With exception of Yerevan "Zvartnots" airport, where a two rout system is used and declaration can be done both verbally and in written form, in all other cases physical persons crossing the Republic of Armenia customs boarders shall present physical person's customs declaration in written form. Customs

declaration for goods and vehicles should be presented to the customs entities before customs control is applied to the goods and vehicles, before they undergo customs processing and are released from customs control.

The submitted customs declaration is collected by customs entity. Before accepting the customs declaration the responsible customs official of the given customs entity must check if the declaration is completed precisely and appropriately, must warn the declarant about the envisaged liability/amenability that he/she may face in case of presenting false data in declaration, try to check the veracity of declared data through verbal inquiries and clarifications, and in case mistakes are found suggest the declarant to fill a new declaration by making appropriate amendments and additions in it. From the moment of accepting the customs declaration it is considered a document with legal power and significance and the declarant, physical person, in this case, bears responsibility for any incorrect information provided in it.

For goods exceeding the in-kind quantities and money threshold envisaged by the Republic of Armenia Legislation, in addition to Declarations completed by physical persons, according to the established regulations, physical persons should complete a Single Administrative Document (SAD) and submit it to the customs entities. The physical person verifies the SAD with his/her signature and presents it to the customs official of the given customs point. The customs officer conducts face vet of the Declaration and the SAD and completes the corresponding boxes on them. The customs officer seals the Declaration and the SAD with personal seal.

In the manner stipulated by the Legislation the customs official conducts physical person's cargo/luggage examination.

During examination, if there is no correspondence mpliance between the declared goods and those actually existing, the examining officer shall be guided by the Republic of Armenia Legislation and make an act on violation of the customs rules.

In case of necessity of non-tariff regulation, as stipulated by the Republic of Armenia Legislation, physical person should present documents (certificate of conformity or certificate of origin, etc.), issued by an appropriate authorized entity.

If necessary, veterinary, vegetation, hygiene and other types of control can be applied to the declared goods by the Republic of Armenia state entities.

Import

According to Article 128 of the Customs Code of the RA all goods and vehicles imported through the customs border of the RA are subject to declaration. Goods and vehicles can be declared either verbally or in writing by providing accurate information on goods and vehicles, the purpose of their transportation, as well as other information on customs control and processing.

For organizations crossing the customs border of the Republic of Armenia transit manifests are completed in the customs border point for declarants. Transit manifests include a number of data regarding the name of the regional custom house where the freight is to be declared, latest date for filing the declaration without penalties, document titles and numbers submitted at custom points, commodity name, number of seats, etc. Before starting the declaration process, declarants have the right to observe and measure goods and vehicles, and take samples if permitted by customs bodies on condition that they will be included in the submitted declaration.

Goods and vehicles are declared in the customs house by the following sequence:
1. Registering a SAD
2. Accepting a SAD
3. Selectivity
4. Payment
5. Goods Release

1. SAD Registration

Based on the submitted documents the declarant fills out the corresponding fields in the SAD. The completed SAD is registered in the automated system. The registered SAD is checked and signed by the declarant and stamped with the organization seal and is submitted to the authorized person in the customs house, i.e. to the estimating inspector. Amendments and supplements to the customs declaration are made before it is accepted by the authorized customs officer.

2. Accepting a SAD

Customs bodies check the accuracy of the order of filling out the SAD, the completeness and validity of submitted documents, the accuracy of applying the customs value method, etc. After the documents are checked the declarant is notified about the responsibility he/she bears in case incorrect information is provided and only after that the SAD is estimated and accepted. The estimated SAD is sealed with inspector's personal seal, and the declarant signs and seals the document with the official seal of the organization. The estimated SAD is considered to be accepted by customs bodies. It is a legal document starting from the moment it is accepted, and the declarant bears a responsibility for the inaccuracy of information declared by him.

3. Selectivity

After estimating the SAD, further declaration direction is automatically selected by Automated Systems of Customs Update Data Administration (ASYCUDA). SAD can be selected by:
Red passage - declared freight is subject to detailed inspection
Yellow passage - declared freight is subject to partial inspection
Green passage - declared freight is released without inspection

4. Payment

The declarant pays customs fees calculated in the SAD. All documents necessary for customs payments are to be completed, namely budget transfer notice of customs fees and customs fee receipt. The SAD and the other above-mentioned documents are sealed by inspector's seal.

5. Goods Release

In case red and yellow passages are selected, declared goods are inspected according to the procedures defined by the law, and correspondence between goods indicated in the SAD and actually existing goods is checked.

In case there is no correspondence between the information mentioned in the declaration and actual goods, a protocol regarding the violation of customs regulations is prepared in accordance with the legislation of the Republic of Armenia.

The declarant submits documents (a certificate of correspondence or origin, etc.) provided by authorized bodies in case there is a necessity of non-tariff regulation defined by the legislation of the Republic of Armenia.

Declared goods are subject to veterinary, sanitary and other type of control carried out by the state bodies of the RA, in case there is a necessity for it.

After having inspected goods (red and yellow passages) in case of the correspondence of information declared to the actually existing goods, the freight is released by making an appropriate note on the SAD.

In the Republic of Armenia a system of customs value determination based upon the principles of the World Trade Organization is in place. (Paragraph 1.16)

There are also mechanisms limiting the export of cash money. Export of any foreign currency exceeding the amount equal to 10.000 US dollars from the customs territory of the Republic of Armenia is prohibited. There is no such limitation for the Armenian Dram. No limitations are in place for importing cash money either.

Only the entities of RA (The Republic of Armenia, the communities, the citizens of RA, permanent residents of RA who are not citizens, entrepreneurs and organizations who have received state registration in the Republic of Armenia) are eligible to import Goods of Obvious Trade Quantity (the quantity is regulated by the Government Decision of 20 March 2003).

1.23

Organizations importing goods and vehicles are expected to file in a declaration and undergo a final customs processing in the appropriate regional customs house within 10 days' period.

Appropriate documents, the list of which is defined by the RA Government, are submitted to corresponding customs bodies for declaration and customs processing. Goods and vehicle declaration is automated and is implemented by Automated Systems of

Customs Update Data Administration (ASYCUDA) system in place since May 1996.. The system is used by a number of countries, such as Latvia, Lithuania, Estonia, Romania, Georgia, etc.) In addition to the fact that the system is used for filling out declaration forms, it also creates a database, which provides an opportunity to run foreign trade statistics, generate various reports and conduct analyses, as well as to establish selective supervision on declared goods and documents based on high-risk assessment results.

People's cross-border movement is controlled by migration bodies, while the control over goods transportation is carried out by customs service bodies. The legislation does not define a certain system of information exchange and coordination of activities between the above-mentioned two bodies.

Import and export of military arms and parts thereof, as well as items such as motorized tanks and other armored fighting vehicles and parts thereof, or bombs, grenades, cartridges and other ammunition and parts thereof; medicine and narcotic drags subject to control within the Republic of Armenia; nuclear (radioactive) substances into the customs territory of the Republic of Armenia is implemented in the special order defined by the Republic of Armenia based on permission by the RA Government. Export of dual-use goods and technologies from the Republic of Armenia customs territory is implemented according to the special order defined by the Republic of Armenia based on permission by the Control Committee for Export of Dual-use Goods and Technologies under the RA Government.

Armenia has adhered to all five international instruments in the sphere of aviation security. Legislation on Civil Aviation Security of Armenia is comprised of the following International and domestic instruments:

International legislation.

- Convention on Offenses and Certain Other Acts Committed on Board Aircraft, signed at Tokyo on September 14, 1963;

- Convention for the Suppression of Unlawful Seizure of Aircraft, signed at the Hague on December 16, 1970;

- Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal on September 23, 1971;

- Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, Supplementary to the Convention or the Suppression of Unlawful Acts against the Safety of Civil Aviation, opened for signature at Montreal on February 24, 1988;

- Convention on Marking of Plastic Explosives for the Purpose of Detection signed at Montreal on March 1, 1991.

Domestic legislation

- The following major legal acts govern aviation security issues in Armenia:

- The Law of Armenia on Aviation: June 1, 2002;

- National Civil Aviation Security Program adopted by the Government of Armenia;

- National Civil Aviation Security Committee established by the Government of Armenia;

The Law on Aviation of the Republic of Armenia was enacted on May 20, 2002. It covers different aspects of Aviation sphere. Article 52 of the mentioned law touches upon the issues related to Civil Aviation security. Based on Article 52, the Decree of the Government of the Republic of Armenia was passed on 10 July 2004, on the establishment of the Rules of Organizing and Implementing Aviation Security Control in the Airports of the Republic of Armenia.

The rules regulate the activities of organizing and implementing the Aviation Security Control of the passengers departing from the airports of the Republic of Armenia by domestic or international flights, of the members of the crew of the aircraft, their hand baggage, luggage, goods, mail, aircraft accessories, as well as of the employees of the organizations carrying out aviation activities in the special control zones of airports.

The aviation security control of the above-mentioned persons is aimed at ensuring aviation security in the airports, protecting the life and health of passengers and crew members, preventing the transportation of arms, ammunition, explosive, radioactive and toxic substances and items, preventing the possible attempts of hijacking civil aircrafts.

The main objective of the Aviation Security Control is to discover and prevent the entry into aircraft of persons possessing arms, ammunition, explosive, radioactive and toxic substances and items, which can be used for launching an attack on the members of the crew or the passengers, for the hijacking the aircraft or can result in an air catastrophe.

All passengers departing by domestic or international flights pass an aviation security control. Transit and transfer passengers are not subjected to an aviation security control if they have not left the sterile zone after exiting from the arrived aircraft. If in that period of time they have left the sterile zone, they are obligated to pass another control procedure before boarding the aircraft. The aviation security control in the airports is implemented by checking the passengers, the members of the crew, their hand baggage, luggage, goods, mail, and airplane accessories, as well as by checking the employees of the organizations carrying out aviation activities in the special control zones of airports.

The executive bodies of the airport are responsible for organizing and implementing the checking. The inspection is carried out only in the presence of the passenger. An inspection could be carried out in the absence of the passenger in accordance with the decision of the head of the Aviation Security Control, in the presence of two witnesses from the passengers of the given flight, upon which a report should be prepared after the inspection.

The luggage of a passenger that did not board the flight is not transported. The certified employees of the Aviation Security Control trained in the appropriate security educational centers of the International Civil Aviation Organization carry out the inspection process.

The inspection of the passengers, their hand baggage and luggage is performed in the checking zones of the airports equipped with security technical equipment.

Double inspection of the passengers, their hand baggage and luggage is carried out in case of an alarm notification about an act of illegal intervention into the activities of the Civil Aviation.

If there is information that a person (persons) on board the plane planned to hijack the aircraft, or there are explosive devices, substances and other items dangerous for the flight, the aircraft, the passengers and the cargo are subject to inspection after the landing.

The post-mail is inspected with special equipment without opening it.

The organizational-technical measures of the security control in the airports comprise the following:

- Prevention and detection of the attempts to transport arms, ammunition, explosive, toxic, flammable, radioactive substances, other items and objects into the aircraft by passengers, members of the crew, and other persons.

- Providing information to the passengers, members of the crew and other persons on the aims and the order of implementation of Aviation Security, on those substances and items, which are prohibited to be transported by a Civil Aviation Aircraft, as well as on the liability for their illegal transportation and the violation of the Aviation Security requirements.

- Exchange of operational information between the Security Service of the airport, the National Security Service, the Police of the Republic of Armenia and other relevant authorities, in case of threat of hijacking and intrusion into the activities of Civil Aviation.

- Effective use of technical equipment of Aviation Security Control and maintenance in an appropriate technical condition.

- Exclusion of the possibility of contacts between the passengers who have passed the security checking with those passengers who have not passed the security procedures, as well as the contacts between the persons accompanying the passengers and the airport staff not involved in service of passengers.

- Monitoring of the behavior and contacts of the passengers in the airport inspection of the places of common use aimed at detecting arms, explosive devices, dangerous items, which can be intentionally left by passengers before passing the security checking.

The Security check zones equipped with technical equipments of aviation security control are established in the airports to implement security checking of the passengers, their hand baggage, luggage. Taking into consideration the specificities of the airports, the number

of departing passengers and the number of flights, one or more check-points can be established in the aviation security check zones.

The check-point includes:

a) A separate floor for the security checking of passengers, their hand baggage, luggage, equipped with technical instruments of aviation security control,

b) A room for passengers' personal inspection,

c) A case for maintaining special technical means of security control.

The check-point shall have entry and exit doors provided with safe locks and alarm system to prevent any attempt of intrusion into the checking point. The entrance of the check-point shall be as wide as to allow the entry of only one person.

If the aviation security control zone consists of several checking points, one of them shall be maintained as additional to regulate the stream of passengers in unforeseen circumstances.

The choice and location of the security control zones is carried out in accordance with the Law of the Republic of Armenia "On Aviation", the National Program of Aviation Security of the Civil Aviation of the Republic of Armenia, created by the RA Government Decision, by the Standards of the International Civil Aviation Organization, as well as by standard legal acts of the General Department of Civil Aviation of the Republic of Armenia.

Effectiveness of controls preventing access to weapons by terrorists

1.24

In Armenia, supervision over the movements of firearms is carried out in accordance with the Law on Arms of RA, Criminal Code of RA, Code of RA on Administrative offences, the Decree of the Government of RA on regulation of circulation of civil and official weapons and their bullets, as well as in compliance with paragraph 2 of Article 43 of the Law On Licensing, which regulates activities related to weapons production, trade, acquisition, collection and exhibition. The same Law regulates also activities connected with production, trade of explosive substances and devices used for explosions, as well as those for explosion works (*The English text of the Law on Licensing is annexed*). The draft Law on "Circulation of Explosive Substances Having Industrial Purposes" was elaborated by the Police and currently is under consideration in the National Assembly.

Production, trade, acquisition, collection or exhibition of firearms on the territory of the Republic of Armenia is to be licensed, except for the cases of production and acquisition of firearms by state military organizations.

The license for firearms production is given by the RA Government, while the licenses for trade, acquisition, collecting or exhibiting are given by the republican body of interior affairs (i.e. Police).

The Law on Arms stipulates the following requirements for manufacturing, obtaining, trading, collecting or displaying arms.

The manufacturing, obtaining, trading, collecting or displaying weapons on the territory of Armenia are subject to licensing, with the exception of cases when the arms are obtained and manufactured by state militarized organizations.

The license for arms manufacturing is given by the Government of the Republic of Armenia and the licenses for obtaining, trading, collecting or displaying them are given by the state republican body of the Interior affairs. License for obtaining arms (except the rifled arms, gas pistols and drum revolvers) can also be given by the local bodies of Interior affairs. (i.e. Police).

The licenses for manufacturing, trading, collecting or displaying weapons are valid for 3 years, and the license for obtaining weapons is valid for 6 months, starting from the day when the license is granted.

The application to receive a license is processed by the above-mentioned bodies during a month, starting from the day of the submission of the application. The mentioned time period might be prolonged in the order prescribed by the law.

The application must include information about the types of the arms subject to manufacturing, trading, obtaining, collecting or displaying, as well as information about the measures taken for ensuring the safe manufacturing, registration and possession of arms. The applicant must also provide information about the establishment and the registration of the company, institution or the organization, or identification as well as other documentations required in accordance with the order prescribed by the law.

Based on an application, the validity of the licenses for manufacturing, trading, collecting or displaying the arms can be prolonged for five years and the license for obtaining the arms can be prolonged for six months. The application for extension of the validity of the above-mentioned licenses must be presented three months prior to the expiration date. The application is processed by the bodies mentioned in the second part of the present article during a month counting from the day of the application.

The reasons for the rejection to grant or extend the licenses are:

a) Failure to provide the required information or providing false information by the applicant.

b) The inability to ensure the safety of the manufacturing, registration and possession of the arms or failing to insure those requirements.

c) Other reasons prescribed by the law.

In case of the rejection in granting license or extending it, the above-mentioned bodies are obligated to inform the applicant in a written form indicating the reason for the rejection. The decision of the rejection in granting license or extension of it, as well as the violations of the application processing time can be appealed by the applicant in the order prescribed by the law.

According to the Law on Arms the manufacturing of arms and bullets is carried out by the legal entities who had obtained licenses for arms production in the order prescribed by the Government of the Republic of Armenia, ensuring the complete safety of the arms manufacturing, supervision over the manufacturing process and the appropriate quality of the products. Every unit of the manufactured arm must have its individual number except the mechanical powder dispensers, aerosols, other devices filled with tear-gas and irritating substances and pursuant to the safety requirements of the exploitation, must be subject to mandatory testing, furthermore must be properly marked in the order prescribed by the republican body of standardization and certification. The firearms, with the exception of the test samples, are manufactured only for supplying the State militarized agencies or exporting to foreign countries in accordance with the regulations set by the Government of Republic of Armenia.

The import and export of the firearms and bullets are performed in accordance with the regulations prescribed by the Government of the Republic of Armenia.

The import and the export of the civilian and service arms and its bullets are carried out with the permission of the republican body of interior affairs.

The import of arms and bullets can be carried out by the supplying legal entities. The export is carried out by the legal entities who had obtained the license for arms manufacturing.

The import and export of arms by other entities are carried out in accordance with the regulations set by the Government of the Republic of Armenia.

The export and import of a single unit of arms for the purposes of hunting, self-defense, and sports are carried out with the permission of the Republican body of Interior in accordance with the requirements of the law.

The "Decision on the Means of Supervision of International Transfers of "Igla" and "Strela" type Portable Zenithal-rocket Complexes by CIS Member States" of the Council of CIS Heads of States was signed on 19 September 2003, in Yalta. A draft agreement on "the order of exchange of the operational information between CIS member-states on traded (transferred) and acquired portable zenithal-rocket complexes of "Igla" and "Strela" type was elaborated within the mentioned decision and at present is in the process of intergovernmental co-ordination. The Agreement contains points, which obligate the member states to exchange information on all the cases of trade (transfer) and acquisition (including rent and leasing of the mentioned zenithal-rocket complexes). The agreement envisages also establishment of appropriate bodies that will ensure the exchange of the necessary information. By the Decree of the President of the Republic of Armenia, the Republican Military-Technical Commission, established in accordance with the Government Decision of 22 August 2002, was designated as such body. The goal of the Agreement is to strengthen the fight against terrorism in the CIS countries and to prevent acquisition of mobile zenithal-rocket complexes of "Igla" and "Strela" by terrorist groups.

Armenia attaches great importance to the Convention on the Marking of Plastic Explosives for the Purpose of Detection and regards it as an indivisible part of the fight against terrorism. The Convention stipulates marking of the explosives, which will enable to detect

those substances and in turn will substantially contribute to the prevention of terrorist acts by those means.

The National Central Bureau of INTERPOL (NCB) in Armenia closely cooperates with the Interpol Weapons and Explosives Tracking System, commonly referred to as IWETS. It serves as an international database designed to collate information on illegal firearms trafficking. The NCB of Armenia, which operates under the Police, provides the law enforcement authorities with the information available from INTERPOL database on current indices of firearms manufactures and other information, which facilitates the identification of firearms. No cases of illegal trafficking in firearms, ammunition and explosives were detected on the territory of Armenia.

By the Decision of the Committee of Secretaries of the Security Councils (CSCS) of the member states of the Collective Security Treaty Organization, a Working Group on the issues of fight against terrorism and other manifestations of extremism was set up during the session held on November 30, 2004 in Yerevan. It is a consultative and coordinating body designated to coordinate the counter-terrorist activities carried out within the framework of the Collective Security Treaty Organization as well as to put forward proposals on the questions of the fight against terrorism and extremism. The regulations of the working group, as well as the main guidelines and mechanisms of its activity are being elaborated.

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Letter dated 1 June 2005 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my predecessor's letter of 27 February 2004 (S/2004/155). The Counter-Terrorism Committee has received the attached third report from the Congo submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex). I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Ellen Margrethe **Løj**
Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

05-37511 (E) 150605 300605

Annex

[Original: French]

Letter dated 26 May 2005 from the Permanent Representative of the Congo to the United Nations addressed to the Chairman of the Counter-Terrorism Committee

Acting on instructions from my Government, I have the honour to transmit to you herewith the third report submitted by the Republic of the Congo on the implementation of Security Council resolution 1373 (2001) (see enclosure).

This report answers the Committee's questions and sets forth the Congo's needs in terms of technical assistance.

My Government reiterates its willingness to cooperate with the Counter-Terrorism Committee and is prepared to provide whatever further information may be needed.

(*Signed*) Basile **Ikouebe**

Enclosure

Third report of the Republic of the Congo submitted to the Counter-Terrorism Committee pursuant to Security Council resolution 1373 (2001)

Introduction

The Republic of the Congo is firmly opposed to all forms of violence. It therefore supports any initiative by the international community designed to combat terrorism. That is why, pursuant to Security Council resolution 1373 (2001), it has already produced two reports — an initial report in August 2002 and a supplementary report in June 2003. This report sets forth the progress made since then.

Paragraph 1

Subparagraph 1 (a)

The Congo is a member of the Central African Economic and Monetary Community (CEMAC). On 28 March 2003, the Ministerial Committee of that Community adopted CEMAC Regulations No. 01/03-CEMAC-UMAC concerning the prevention and punishment of money-laundering and of the financing of terrorism in Central Africa which is an integral part of the domestic legislation of the Congo.

The words used in the Regulations to describe the offences of money-laundering and financing of terrorism are identical to those used in article 2 of the International Convention for the Suppression of the Financing of Terrorism and article 6 of the United Nations Convention against Transnational Organized Crime. These offences are directly applicable in the Republic of the Congo since they are part of the legislation of the Community.

Nevertheless, in order to enhance the implementation of these rules, the Republic of the Congo is planning to amend the existing Criminal Code so as to incorporate them into its domestic legislation.

It should be noted that Title III of the Regulation deals with the prevention and detection of the financing of terrorism. To that end it imposes obligations on financial institutions and other specified persons, inter alia the obligation to report suspicious transactions and funds (arts. 36 and 38). Title II concerns the prevention and punishment of money-laundering (art. 18).

Such reports must be made to the national financial investigations agency which is to be set up pursuant to article 5.

If the reports point to facts that may involve the financing of terrorism, the agency must refer them immediately to the Office of the Prosecutor.

Pursuant to article 21, in the absence of a report, administrative proceedings are undertaken and the Prosecutor is kept informed. Anyone who reveals to the owner of the funds or to the author of the transaction that a report has been made to

the agency shall be liable to imprisonment for between 5 and 10 years and to a fine (art. 48).

Subparagraph 1 (b)

The Congo does not yet have any anti-terrorist legislation of its own. However, the offence of financing of terrorism provided for in the CEMAC Regulations is directly applicable to the Congo. According to article 52 of the Regulations that offence is punishable by a prison term of at least 10 years and a fine that can be as much as 10 times the sum involved and in any case will not be less than 10,000,000 CFA francs. The funds do not actually have to have been used for the commission of the offence in order for these penalties to apply. Additional penalties applicable to legal entities are set forth in article 53 of the Regulations.

Subparagraph 1 (c)

With regard to the freezing or confiscation of assets, it should also be pointed out that the CEMAC Regulation contain relevant provisions that can be directly applicable to the Congo. They include:

- Article 41, which provides for freezing the assets of persons found to be guilty of financing terrorism or listed by the Security Council Counter-Terrorism Committee, in accordance with the resolutions concerning the financing of terrorist acts;
- Article 43, which gives the judicial authority the power to seize assets relating to the offence of financing of terrorism which is under investigation, and to order measures, including freezing of capital and of financial operations involving these assets;
- Article 54, which authorizes the competent court, in the case of a conviction for the offence of financing of terrorism or a finding of such an offence by the court, to order the confiscation of the assets which are the subject of the offence, including the income and other advantages derived therefrom, and of the assets belonging, directly or indirectly, to anyone convicted of financing terrorism.

The competent court may also order the confiscation of assets seized or frozen, at the request of the Public Prosecutor where it is established that the assets are the proceeds of an offence or crime or that the authors cannot be prosecuted.

Subparagraph 1 (d)

The CEMAC Regulations also contain provisions that are directly applicable to the Congo in this area. Under article 39, financial and other institutions are required to carefully review operations they carry out and funds they hold directly or indirectly for charitable, cultural or social organizations and are required to keep copies of any documents relating to such careful reviews for five years.

Paragraph II

Subparagraph 2 (a)

The Republic of the Congo has already begun the procedure for ratification of the United Nations Convention against Transnational Organized Crime and the first two protocols thereto. It signed these texts on 14 December 2000.

Subparagraphs 2 (c) and (g)

Concerning maritime security, the Congo organized, with the assistance of the International Maritime Organization, a national seminar in Brazzaville, from 22 to 26 March 2004. It also participated in several regional IMO meetings, including the seminar for West and Central Africa held in Nigeria from 31 March to 3 April 2003 and the seminar for the Maghreb and French-speaking countries held in Algiers from 6 to 10 September 2003.

Paragraph III

Subparagraph 3 (d)

The Republic of the Congo is party to the following:

- Convention on Offences and Certain Other Acts Committed on Board Aircraft;
- Convention for the Suppression of Unlawful Seizure of Aircraft;
- Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation.

It has also begun the procedure for ratification of the following:

- International Convention for the Suppression of Terrorist Bombings;
- International Convention for the Suppression of the Financing of Terrorism;
- Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents;
- International Convention against the Taking of Hostages;
- Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation;
- Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf.

It should be noted that a commission has recently been set up to bring the provisions of the Criminal Code into line with those of the universal instruments to combat terrorism and transnational organized crime. This was done following the above-mentioned technical assistance seminar that the Congolese Government organized with the help of the United Nations Office on Drugs and Crime in Brazzaville. The commission is composed of the Ministries involved in the handling of efforts to combat terrorism.

Conclusion

As pointed out in our previous reports, the Republic of the Congo is trying, within the limits of its capacities, to implement the provisions of Security Council resolution 1373 (2001).

However, the assistance of the international community is essential in order to overcome certain difficulties.

That is why, pursuant to paragraph 10 (a) of the action plan of the regional expert seminar on the ratification and implementation of the universal instruments against terrorism, transnational organized crime and corruption, held at Praia, Cape Verde, from 8 to 10 December 2004, the Republic of the Congo would like assistance from the Counter-Terrorism Committee to train experts in techniques for implementing such international instruments and to set up, organize and ensure the operation of a financial intelligence service.